

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JASON BRIAN SMITH,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting
Commissioner of Social Security,¹

Defendant.

No. 2:21-cv-0412 DB

ORDER

This social security action was submitted to the court without oral argument for ruling on plaintiff's motion for summary judgment and defendant's cross-motion for summary judgment.² On September 15, 2023, the court granted plaintiff's motion for summary judgment, reversed the decision of the Commissioner of Social Security, and remanded the matter for further proceedings.

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¹ After the filing of this action Kilolo Kijakazi was appointed Acting Commissioner of Social Security and has, therefore, been substituted as the defendant. See 42 U.S.C. § 405(g) (referring to the "Commissioner's Answer"); 20 C.F.R. § 422.210(d) ("the person holding the Office of the Commissioner shall, in his official capacity, be the proper defendant").

² Both parties have previously consented to Magistrate Judge jurisdiction over this action pursuant to 28 U.S.C. § 636(c). (See ECF No. 10.)

On September 29, 2023, defendant filed a motion to amend the judgment. (ECF No. 22.) The motion is noticed for hearing before the court on November 3, 2023. Pursuant to Local Rule 230(c) plaintiff was to file an opposition or a statement of non-opposition to defendant's motion not less "than fourteen (14) days after the motion was filed." Plaintiff, however, has failed to file a timely opposition or statement of non-opposition to the motion.

The failure of a party to comply with the Local Rules or any order of the court "may be grounds for imposition by the Court of any and all sanctions authorized by statute or Rule or within the inherent power of the Court." Local Rule 110. Failure to comply with applicable rules and law may be grounds for dismissal or any other sanction appropriate under the Local Rules. Id. In the interests of justice, the court will provide plaintiff with an opportunity to show good cause for plaintiff's conduct along with a final opportunity to oppose defendant's motion.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff show cause in writing within fourteen days of the date of this order as to why plaintiff should not be sanctioned for failing to comply with the Local Rules;

2. The November 3, 2023 hearing of defendant's motion to amend (ECF No. 22) is continued to **Friday, December 8, 2023, at 10:00 a.m.**, at the United States District Court, 501 I Street, Sacramento, California, in Courtroom No. 27, before the undersigned³;

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³ Parties shall appear at the hearing either telephonically or over video conference through the Zoom application (which is free and must be downloaded to your computer or mobile device prior to the hearing). Parties proceeding in propria persona, on his or her own behalf, shall contact Shelly Her, the courtroom deputy of the undersigned magistrate judge at (916) 930-4128, no sooner than 4 days prior to the noticed or continued hearing date but no later than 48 hours prior to the hearing, to arrange their appearance either telephonically or over video conference. Counsel will receive an email containing the necessary appearance information and must notify the courtroom deputy no later than 48 hours prior to the hearing to elect to appear either telephonically or over video conference. The Zoom ID Number and password are confidential and are not to be given to anyone. Persons granted remote access to these proceedings, whether by Zoom or by telephone, are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the court.

1 3. On or before **November 24, 2023**, plaintiff shall file an opposition or statement of non-
2 opposition to defendant's motion; and

3 4. Defendant may file a reply, if any, on or before **December 1, 2023**.

4 DATED: October 30, 2023

/s/ DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE